

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

BRAZ COLEMAN

PLAINTIFF

VERSUS

CIVIL ACTION NO. 3:22-cv-00621-TSL-RPM

LAUDERDALE COUNTY, et al.

DEFENDANTS

ORDER REQUIRING DEFENDANTS TO RESPOND

On review of the Report and Recommendation [60] dated January 3, 2024, the District Court remanded the case to the undersigned “for an evidentiary hearing on the issue of administrative exhaustion of plaintiff’s post-incarceration claims for denial of adequate medical care and unconstitutional living conditions, . . . or for further proceedings, in the event that exhaustion is waived.” [65] at 2. “Defendants, of course, may choose to waive the issue of exhaustion and proceed to litigation of the merits of plaintiff’s claims.” *Id.* at 11 n.10. The undersigned, “in his discretion, [will] set a deadline for the defendants to indicate their election.” *See id.*

IT IS, THEREFORE, ORDERED that Defendants shall file a written response within fourteen days of the date of this Order to advise the Court whether they wish to (1) proceed to an evidentiary hearing in pursuit of their exhaustion defense; or (2) waive the defense of exhaustion of administrative remedies and proceed to a determination of the merits of this case.

SO ORDERED, this 2nd day of April, 2024.

/s/ *Robert P. Myers, Jr.*
ROBERT P. MYERS, JR.
UNITED STATES MAGISTRATE JUDGE